IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 16747 of 2007(R)

PETITIONER:

N.RAVEENDRAN, "THUSHARA",
AGASTHYACODU, ANCHAL, KOLLAM.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:
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1. **THE REGIONAL TRANSPORT AUTHORITY,**
   KOLLAM, REPRESENTED BY ITS SECRETARY.

2. **THE SECRETARY, REGIONAL TRANSPORT**
   AUTHORITY, KOLLAM.

3. **THE DISTRICT TRANSPORT OFFICER,**
   K.S.R.T.C., KOLLAM.

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.
BY GOVERNMENT PLEADER SRI. M.R. SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/10/2007, THE COURT ON 15/11/2007 DELIVERED THE FOLLOWING:

KSS

WPC.NO.16747/2007 R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PROCEEDINGS DTD. 31/11/2006.**

EXT.P2: **COPY OF THE APPEAL MEMORANDUM DTD. 15/01/2007 IN M.V.A.A.41/2007.**

EXT.P3: **COPY OF THE JUDGMENT DTD. 27/02/2007 IN M.VA.A.NO. 41/2007.**

EXT.P4: **COPY OF THE ORDER DTD. 27/04/207 IN REVIEW PETITION 4/2007 IN M.V.A.A.NO.41/2007.**

EXT.P5: **COPY OF THE PROCEEDINGS DTD. 3/03/2007.**

EXT.P6: **COPY OF THE PROCEEDINGS DTD. 3/11/2006.**

EXT.P7: **COPY OF THE PROCEEDINGS DTD. 8/08/2002.**

EXT.P8: **COPY OF THE DRAFT SCHEME DTD. 9/05/2006.**

EXT.P9: **COPY OF THE PARTIAL EXCLUSION SCHEME OF KAYAMKULAM – KULATHUPUZHA DTD. 27/07/1967.**

EXT.P10: **COPY OF THE NEXT DRAFT SCHEME DTD. 9/05/2007.**

/TRUE COPY/

P.S.TO JUDGE

KSS

ANTONY DOMINIC, J.

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W.P.(C) No. 16747 OF 2007 R
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Dated this the 15th November, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext. P3 judgment of the STAT in MVAA No. 41/07 and the consequential proceedings of the 1st respondent dated 3-11-2006. Petitioner also seeks a direction to the 1st respondent to re-consider the application made by the petitioner.

2. Ext. P1 is the proceedings of the 1st respondent whereby the application for regular permit on the route Thiruvaikode Temple-Punalur Private Bus Stand (via) Chadayamangalam, Ayoor, Anchal and Karavloor was rejected. According to the 1st respondent, the grant of permit would offend Trivandrum-Kollam-Kottarakkara Circular Scheme, Trivandrum-Kottayam (via) Punalur Supplementation Scheme and Kayamkulam-Kulathupuzha partial exclusion scheme.

3. Aggrieved by Ext. P1, petitioner filed MVAA No. 41/07 which resulted in Ext. P3 judgment. The appeal was rejected on the ground that the permit sought for by the petitioner would offend Trivandrum-Kottayam (via) Ranni Scheme. Though the petitioner filed an application for review of Ext. P3 judgment by filing R.P. No. 4/07, that was also rejected by Ext. P4. It is in this background this writ petition has been filed praying for the reliefs mentioned above. To contend that the grant of permit applied for is not impermissible, petitioner relies on the judgment of this Court in ***Anish V. Kumar v. RTA & Others*** {2007(1) ILR Kerala 386}.

4. I have considered the submission made by the learned counsel on either side. A reading of Ext. P1 order shows that the RTA has found that the route applied for by the petitioner offends the three schemes mentioned earlier. In the appeal that was filed, the Tribunal found that it offends Trivandrum-Kottayam (via) Ranni Scheme. Petitioner submitted that he is willing to modify the offending portion of the route applied for and it is on that ground a review of Ext. P3 was sought for by filing R.P. No. 4/07. However, the Tribunal in Ext. P4 order

found that even in the appeal memorandum, leave alone the review petition, the petitioner had not mentioned the modification that he proposed. The Tribunal has rightly held that even in the file there was no such request and the route also remained unspecified. It was in this background the Tribunal declined to accept the petitioner's request for modification of the route sought for. Even on a re-appreciation of the facts the Tribunal again found in Ext. P4 that the overlapping sector having a distance of 8 kms. exceeds 10% of the route length and therefore was impermissible.

5. In my view, the orders passed by the RTA as confirmed in Ext. P3 and P4 do not suffer from any perversity warranting interference under Article 226 of the Constitution. True the petitioner relies on the judgment of this Court in 2007 (1) ILR Kerala 386 (supra). However, that judgment only provides that permit can be issued connecting two intermediate points in a nationalised route which is also a circular route and not a linear route. In so far as this case is concerned, petitioner has no case that the portion which is found to be offending in Ext. P3 is part of a circular

route. Hence the dictum laid down in the aforesaid judgment has no application to the facts of this case.

The writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-